

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

**DONNA CURLING, ET AL.,
Plaintiffs,**

v.

**BRAD RAFFENSPERGER, ET AL.,
Defendants.**

Civil Action No. 1:17-CV-2989-AT

**CURLING PLAINTIFFS' MOTION FOR LEAVE TO FILE UNDER SEAL
CURLING PLAINTIFFS' STATEMENT REGARDING ASSOCIATIONAL
PRIVILEGE IN RESPONSE TO OCTOBER 20, 2021 TELECONFERENCE
AND DECLARATIONS IN SUPPORT THEREOF**

Plaintiffs Donna Curling, Donna Price, and Jeffrey Schoenberg (the “Curling Plaintiffs”) move the Court to seal Curling Plaintiffs’ Statement Regarding Associational Privilege in Response to October 20, 2021 Teleconference [D.E. 1190] as well as the accompanying Declaration of Donna Curling, Declaration of Donna Price and Declaration of Jeffrey H.E. Schoenberg [D.E. 1190-1, 1190-2, 1190-3] (“Curling Plaintiff Declarations”). Specifically, portions of the Statement and Curling Plaintiff Declarations (together the “Sensitive Information”) cite, discuss, or otherwise disclose personal information including specific voting histories and discussion of associational privilege. In addition, the Court asked that the Curling Plaintiff Declarations and Statement be filed under seal. October

20, 2021 Conference Transcript at 26:24-25 (“So -- but you can file the affidavits under seal.”).

ARGUMENT AND CITATION OF AUTHORITY

The Curling Plaintiffs recognize that there is a presumption of public access to judicial documents. However, “[a] party’s privacy or proprietary interest in information sometimes overcomes the interest of the public in accessing the information.” *Romero v. Drummond Co., Inc.*, 480 F.3d 1234 (11th Cir. 2007). “The common law right of access may be overcome by a showing of good cause, which requires ‘balanc[ing] the asserted right of access against the other party’s interest in keeping the information confidential.’” *Id.* (quoting *Chicago Tribune v.*

Bridgestone/Firestone, 263 F.3d 1304, 1309 (11th Cir. 2001) (alteration in *Romero*). In determining whether to seal a document, the Court should consider the following, non-exhaustive list of factors: “whether allowing access would impair court functions or harm legitimate privacy interests, the degree of and likelihood of injury if made public, the reliability of the information, whether there will be an opportunity to respond to the information, whether the information concerns public officials or public concerns, and the availability of a less onerous alternative to sealing the documents.” *Id.* at 1246. Here, the Court has directed Curling Plaintiffs to file their Declarations under seal; disclosure of the information

contained in the Declarations and in the Statement would harm legitimate privacy interests of non-public persons and concerns, or at the least, risk irreparable harm to those interests that are the subject of a bona fide discovery dispute between litigants; and until the dispute is resolved, there is no less onerous alternative to sealing the Sensitive Information.

Wherefore, for good cause, Curling Plaintiffs respectfully request that the Court grant their Motion for Leave to File Under Seal. A proposed order is attached for the convenience of the Court.

Respectfully submitted, this 9th day of November, 2021.

/s/ David D. Cross

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CERTIFICATE OF COMPLIANCE

I hereby certify that the foregoing document has been prepared in accordance with the font type and margin requirements of LR 5.1, using font type of Times New Roman and a point size of 14.

/s/ David D. Cross
David D. Cross

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CERTIFICATE OF SERVICE

I hereby certify that on November 9, 2021, a copy of the foregoing
**CURLING PLAINTIFFS' MOTION FOR LEAVE TO FILE UNDER SEAL
CURLING PLAINTIFFS' STATEMENT REGARDING ASSOCIATIONAL
PRIVILEGE IN RESPONSE TO OCTOBER 20, 2021 TELECONFERENCE
AND DECLARATIONS IN SUPPORT THEREOF** was electronically filed
with the Clerk of Court using the CM/ECF system, which will automatically send
notification of such filing to all attorneys of record.

/s/ David D. Cross
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